IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE ELEVENTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO : 138 of 2004

Between:

1 R. Prabhakar, S/o. Radha Krishna Rao,
R/o. Utukuru Village, Vidavaluru Mandal, Nellore Dist.
2 T. Lakshmi, W/o. Prabhakar,
R/o. Utukuru Village, Vidavaluru Mandal, Nellore Dist.

..... PETITIONERS

AND

1 The Dist. Collector, Nellore.
2 The Mandal Revenue Officer, Chillakuru Mandal, Nellore Dist.
3 I.J.M. (India) Infrastructure Ltd., Budanam Village, Chillakuru Mandal,

Nellore Dist.
4 Swarna Toll-Way Pvt. Ltd. rep by General Manager, Bhudanam

Village, Nellore District.
5 Commissioner of Land Revenue, Nampally Road, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate Writ, Order or direction, more particularly one in the nature of Writ of Mandamus, declaring the action of the Respondents in interfering Petitioners land bearing Sy.No. 876/P to an extent of Ac.3-90 cents and Survey No. 876/P to an extent of Ac.3-90 cents and Survey No. 876/P to an extent of 2.00 acres situated at Kadivedu Revenue, Patragunta of the Petitioners as illegal, arbitrary and against the principles of natural justice and consequently direct the Respondents herein not to interfere with the possession of the petitioners land in Sy.No. 876/P to an extent of 3-90 cents and Survey No. 876/P to an extent of 2-00 acres situated at Kadivedu Village & revenue, Patragunta, Chillakuru Mandal, Nellore Dist.

Counsel for the Petitioners:MR.Y.ASHOK RAJ

Counsel for the Respondents 1,2 &5 : GP FOR REVENUE

Counsel for Respondents 3&4: MR.B.SATYA SAI KAMESHWAR

The Court made the following :

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.138 OF 2004

ORDER:

The petitioners allege that they purchased land admeasuring Acs.5.90 in Survey No.876/P in Kadivedu village, Nellore District. It is their case that in October, 2003, the Mandal Revenue Officer, Chillakur, the second respondent herein directed them not to enter the land. On enquiries, the petitioners were allegedly informed that the land has been assigned/alienated to respondents 3 and 4 and that the possession was delivered to them. Immediately thereafter, both the petitioners made a representation to the District Collector on 30.10.2003, by letter dated 14.11.2003 (annexed to the writ petition at page 14) the District Collector allegedly directed the Revenue Divisional Officer to enquire into the matter and take appropriate action as per the Rules. The petitioners again filed the writ petition seeking a declaration that the action of the respondents in interfering with the petitioners' ownership and possession is illegal and arbitrary. Though the interlocutory matter is listed, with the consent of the learned counsel for petitioners and the learned counsel for respondents, the writ petition is finally heard and is being disposed of by this order at the interlocutory stage.

A perusal of the affidavit accompanying the writ petition and the submissions made across the Bar by the learned counsel for petitioners would show that there is a dispute as to title between the petitioners on the one hand and the respondents 3 and 4 on the other hand. Therefore, the remedy of the petitioners lies in approaching the Civil Court for appropriate declaration and injunction. Merely because the District Collector directed the Revenue Divisional Officer to conduct enquiry into the matter, notwithstanding any enquiry that might have been conducted, the Revenue Divisional Officer is not authority to decide the question of title. Therefore, if the petitioners are still in possession of the land, the respondents shall not interfere with the possession. Petitioners are given liberty to approach Civil Court and seek appropriate relief.

The writ petition, with the above observations, is dismissed.

(V.V.S.RAO,J)

11.10.2004.

pln

To

1. The District Collector, Nellore.
2. The Mandal Revenue Officer, Chillakuru Mandal, Nellore District.
3. The Commissioner of Land Revenue, Nampally Road, Hyderabad.
4. 2 CCs to the G.P. for Revenue, High Court Buildings, Hyderabad.
5. 2 CD copies.